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May 15, 1996

VIA FEDERAL EXPRESS

William F. Caton
Office of the Secretary
Federal Communications Com nission
1919 M Street, NW
Room 222
Washington, DC 20554

Re: In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996
CC Docket No. 96-98

Dear Mr. Caton:

Enclosed for filing with your office are the original and 16 copies of the Initial Comments of the Minnesota Independent Coalition regarding the above-referenced matter.

If you have any questions regarding the enclosures, please do not hesitate to contact me.

Very truly yours,

Richard J. Johnson

RJJ/jdh
Enclosures
cc: (with enclosure)
Ms. Janice Myles
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BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In the Matter of	)	CC Docket No. 96-98
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	

INITIAL COMMENTS OF THE MINNESOTA INDEPENDENT COALITION

Minnesota Independent Coalition

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Date: May 16, 1996

SUMMARY

The issues raised in this proceeding require the Commission to carefully note the wide differences between Local Exchange Companies ("LECs") that are within the scope of the Telecommunications Act of 1996 (the "Act") and the different policies and priorities that the Act establishes for these different LECs. While the Commission has indicated its intent to establish national rules to implement the Act, the Commission must recognize that such rules would be inconsistent with the intent of the Act that the States retain significant discretion regarding areas served by rural telephone companies. The Commission has appropriately recognized that the States have sole authority to resolve matters relating to exemption from incumbent LEC obligations and to modifications and suspensions of incumbent LEC and all LEC obligations. Similarly, the Commission should clearly indicate that any national rules that it may adopt are not applicable to rural LECs.

The Commission should also allow the States to impose additional obligations on new competitors, which are consistent with the Act and will facilitate both negotiations and the development of competition. It is particularly important that the States be allowed to impose added obligation of new competitors in the context of balancing issues relating to exemption, modifications and suspensions.

The distinctions between competitive interconnection arrangements and interconnections between non-competing LECs is also critical and consistent with the Act which recognizes that there are different standards that should apply to competitive interconnections and to non-competitive interconnections. Imposing the competitive

requirements on non-competitive interconnections would be costly and would impose unnecessary burdens on consumers without any benefits.

The act also distinguishes between the uses of services and the prices to be charged for services. It is completely consistent with the Act that the total cost of unbundled network elements may exceed the price of the bundled service that uses these elements. Such a price differential is appropriate because the purchase of unbundled elements allows the purchaser to impose access charges for providing "exchange access" while the purchase for resale of bundled local service does not. Similarly, the act does not intend that Interexchange carriers may purchase unbundled elements for their own use and avoid the obligation to pay for "exchange access" provided by local carriers. While misuse of the Act is possible, that possibility does not justify violation of the intent of the Act or the haphazard elimination of current access charge arrangements.

Finally, the Commission should not require that bill and keep arrangements be imposed in situations where those arrangements would violate the basic pricing requirements of the Act. While the Act allows bill and keep in certain circumstances, the use of bill and keep should not be imposed in other situations.

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BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In the Matter of	)	CC Docket No. 96-98
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INITIAL COMMENTS OF THE MINNESOTA INDEPENDENT COALITION

The following Initial Comments are submitted by the Minnesota Independent Coalition, an unincorporated association of over 80 small rural telephone companies providing telephone exchange service and exchange access service in Minnesota. The members of the Minnesota Independent Coalition all fit the definition of "rural telephone companies" within the meaning of 47 U.S.C. § 153(47). The average size of the members is under 3,000 access lines, with approximately 25 members serving less than 1,000 access lines and approximately 43 members serving less than 2,000 access lines. Collectively the members of the Minnesota Independent Coalition provide telephone exchange and exchange access services to over 200,000 access lines in Minnesota. These comments will focus on issues raised in the Commission's April 19, 1996 Notice of Proposed Rulemaking ("NPRM") in this proceeding.

I. "NATIONAL RULES" WOULD BE COMPLETELY INAPPROPRIATE FOR RURAL LECS.

In the NPRM, the Commission indicates its intent to adopt "national rules to minimize variations between the States in implementing the goals of promoting efficient competition in local telecommunications markets throughout the country[1]. The Commission cites benefits from such an approach, including minimizing variations among the States and guiding States that have not yet adopted the competitive approach reflected in the Act. The Commission also requested that the commenters address the issues raised in the context of the interrelationship between the competition issues raised in this proceeding and the universal service and access charge reform issues that are and will be the subjects of other proceedings.[2]

The Commission also notes, however, that there may be countervailing considerations that weigh against rules that would provide substantial detail for the statutory requirements of Sections 251 and 252.[3] The Commission notes that explicit national rules may "unduly constrain" the ability of States to address unique policy concerns, including significant variations in technological, geographic or demographic conditions.[4] The Commission also notes the value of permitting States to experiment with different pro-competitive approaches and that the trade-off is between swift introduction of telecommunication service and other policy priorities.[5]

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[1] NPRM at ¶¶ 26, 29, 33, 34, 35, 50.
[2] NPRM at ¶ 3.
[3] NPRM at ¶ 33.
[4] Id.
[5] Id.

For the reasons set forth below, the Commission should allow the States the maximum degree of flexibility consistent with accomplishment of the goals of the Act. While speedy introduction of competition is a significant priority, it is more important that the competition be introduced in a practical and sound manner that will serve the public interest in not only the short run but also in the long run. Practicality requires that local characteristics be carefully considered and reflected in appropriate solutions geared to those considerations.

The Commission has recognized that the States and State commissions have sole authority with respect to matters of exemptions, suspensions and modifications of LEC and incumbent LEC obligations for rural LECs and LECs with less than 2% of the Nation's access lines[6]. National rules would be completely inappropriate for these issues and would be completely inconsistent with Congress' intent that policy decisions for areas served by rural LEC be made by States and State commissions.

A. The States should be allowed the maximum discretion so long as their decisions comply with the Act.

The Commission has recognized the significant advantages that may result from allowing States to implement policies reflecting their unique concerns.[7] Against these advantages, the Commission raises concerns that an excess of variation may compromise and impede the introduction of local competition.

In resolving these concerns, the Commission should recognize that Congress intended that the States and State commissions be significant participates in developing

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[6] NPRM at ¶ 261.
[7] NPRM at ¶ ¶ 33, 35.

and implementing competitive policies. As discussed in Section III below, the Act grants to the States and State commissions considerable discretion to adjust the obligations of the new competitors and the incumbent LECs so long as those adjustments are not inconsistent with the express requirements of the Act. Further, it is clear that Congress intended that States and State commissions have the maximum flexibility and participation in regards to areas served by rural LECs.

While the Commission has recognized that the States and State commissions should have exclusive control of issues concerning exemption, modification and suspension, it is important for the Commission to also recognize that some of its "national rules" would have an indirect impact on rural LECs, absent a specific Statement to the contrary.

B. "National Rules" increases the risk of a "one size fits all" approach that is geared to the TIER 1 LECs and very inappropriate for Rural LECs.

The Commission has recognized the distinctions between TIER 1 LECs and other LECs.[8] While TIER 1 LECs serve a vvery large portion of the access lines, the application of rules that are directed to overcoming the obstacles to competition that may occur in areas served by Tier 1 LECs to all LECs would be inappropriate, and especially inappropriate for rural LECs.

The establishment of inflexible national rules would be a matter of grave concern for rural LECs, even if issues of exemption, modification and suspension were specifically reserved to the States. Such rules would be troublesome because such rules

[8] NPRM at ¶ 117.

could, in effect, become the presumptive standards for application whenever a State commission determined that an exemption, suspension or modification was not appropriate. In short, the establishment of inflexible national rules directed primarily at the issues posed by Tier 1 LECs could have the unintended effect of making the determination of exemption, suspension or modification issues matters of "all or nothing" decision making.

Such a result would be highly inappropriate and inconsistent with the intent of both Congress and the Commission. A few examples illustrate this point.

1. Rural LECs are impacted by "National Rules" concerning resale.

The rules established by the Commission may have indirect impact on rural LECs because the States and State commissions may not require a new competitor to fulfill the requirements of an eligible telecommunications carrier for rural LECs serving areas if the rural LEC "has obtained an exemption, suspension or modification of the Section 251(c)(4) that effectively prevents a competitor from meeting the requirements of" an eligible telecommunications carrier.[9]. Since the Commission will be issuing rules to specify the requirements of Section 251(c)(4)[10], those rules may have an impact on rural LECs. The Commission's rules regarding resale will be very likely to effect the decisions of the States and State commissions concerning whether the extent of the rural LEC's exemption, suspension or modification of the requirements of Section 254(c)(4)

[9] Section 253(f).
[10] NPRM at ¶¶ 85, 117, 172-175, 177.

"effectively prevents a competitor from meeting the requirements" of an eligible telecommunications carrier.[11]

Accordingly, it is essential that the Commission clearly indicate that the rules that it may promulgate to implement Section 251(c)(4) are distinct from the criteria for preservation of the State and State commission's discretion under Section 253(f)(1) which is directed to the question of whether or not the rural LEC's exemption, suspension or modification "effectively" prevents a competitor from meeting the requirements" of an eligible telecommunications carrier.

2. Unbundling obligations that may be very appropriate for TIER 1 LECs would be completely inappropriate for Rural LECs.

The NPRM focuses considerable attention on the subject of the degree of unbundling and the pricing of unbundled elements within the local loop.[12] Clearly, the considerations that are appropriate for resolving this question in the context of a TIER 1 LEC are far different from the resolution of this question in the context of a rural LEC, even if the basic decision is made that both should be required to "unbundle" their facilities and services.

The technical sophistication, administrative capacity, and resources available to a TIER 1 LEC are completely unlike a rural LEC. Accordingly, imposing upon TIER 1 LECs and rural LECs the same unbundling obligations would lead to vastly greater per unit costs for the rural LECs thanfor the TIER 1 LECs. Such administrative costs and burdens may outweigh the benefit to be gained from unbundling by the rural LEC. There

[11] Section 253(f)(1).
[12] NPRM at ¶¶ 117-118, 125-129, 137-149.

are undoubtedly many more examples where the burdens and costs that may be appropriate for a TIER 1 LEC would be completely out of proportion for a rural LEC.

Accordingly, it would be appropriate for the Commission to clearly indicate in its rules that the States retain significant discretion for LECs other than TIER 1 LECs, perhaps within specific requirements for the TIER 1 LECs.

3. The ability to negotiate freely is particularly important to Rural LECs.

The promulgation of explicit and inflexible national rules would also impose a particular hardship on rural LECs which may become involved in negotiations for interconnection and other requirements under Section 251(c) because the ability to negotiate flexible solutions is likely to be of particular significance. As previously noted, the technical, administrative, and financial capacities of rural LECs will be drastically different from the administrative capacities of the TIER 1 LECs.

In addition to wide variations between the administrative ability of TIER 1 LECs and rural LECs, there is wide variation in both the administrative and technical abilities among rural LECs. In this context, the ability to negotiate freely for interconnection arrangements is particularly important to both the rural LECs and to potential interconnecting parties. Accordingly, to the extent that the Committee adopts national rules, they should leave the maximum degree of flexibility to the States and parties and should further specifically indicate that the requirements do not apply to rural LECs which may become involved in the fulfillment of some or all of the Section 251(c) obligations of the incumbent LECs.

Indeed, it may be most appropriate for the Commission to adopt rules that do no more than establish "safe harbors" or "presumptively appropriate" or "preferred" results for even TIER 1 LECs. Such an approach would facilitate the introduction of competition by establishing results that would be generally appropriate, while also allowing the States and State commissions latitude to adopt other approaches if the other approaches also meet the requirements of the Act and the needs of the parties.

4. The existence of a single instance of interconnection or unbundling does not prove "feasibility".

In the NPRM, the Commission indicated its intent to adopt a standard of "technical feasibility" that would include any instance in which a LEC had allowed interconnection or the unbundling of elements, even in single instances, now or in the past[13]. Such a standard would be inappropriate for most LECs, and would be completely inappropriate for rural LECs. "Technical feasibility" is one of the criteria for termination of the interconnection exemption under Section 251(f)(1)(A). "Technically infeasible" is one of the criteria for determination of suspensions or modifications under Section 251(f)(2). Technical feasibility involves more than the possibility that something was once done, either now or at some time in the past. Many engineering solutions are technically possible, but are certainly not technically feasible in any realistic sense of the term.

[13] NPRM at ¶ 57.

a. "Technical feasibility" includes both technical "possibility" and technical "practicality".

It is clear that the concept of technical feasibility must be taken into account more than mere technical possibility. Many solutions are technically possible, while being completely infeasible. Feasibility includes considerations of possibility, practicality and cost/benefit. To the extent that the Commission adopts rules addressing the question of technical feasibility, it would be completely inappropriate to conclude that technical feasibility is present whenever an isolated instance of an activity has occurred. While such an approach would certainly impose the maximum burdens on the LECs, such an approach would be inconsistent with the balance intended under the Act.

b. A single interconnection or unbundling does not prove "technical feasibility" or "infeasibility" to determine whether to terminate an exemption or to grant a suspension or modification.

Even if the Commission concludes that a single instance of unbundling or interconnection establishes feasibility for TIER 1 LECs, it should clearly not apply to determine "technical feasibility" or "infeasibility" in the context of decisions concerning exemptions, suspensions or modifications of LEC and Incumbent LEC obligations under Section 251(b) and (c). The express exclusion of such a definition from the determination of exemption, suspension or modification is consistent with the Commission's intent to leave the subjects of exemption, suspension and modifications solely to the States and State commissions.[14] It is important for the Commission to clarify that intent, however to prevent applications not intended by the Commission.

[14] NPRM at ¶ 261.

II. THE STATES SHOULD BE ALLOWED TO RESOLVE ALL EXEMPTION, SUSPENSION AND MODIFICATION ISSUES.

As the Commission has recognized, the Act intends that questions concerning exemption from interconnection or suspension and modification of LEC or incumbent LEC obligations should be resolved by the States and State commissions. Clearly, the Act intends that the discretion of States and State commissions be at its greatest in areas served by rural LECs.

A. The Commission is appropriately focusing on resolving the competitive issues that are characteristic of large urban areas.

A review of the NPRM clearly indicates that the Commission is similarly focused on issues relating to the introduction of competition in large urban areas and on the relative economic and market power of the TIER 1 LECs and their potential local competitors.[15] The Commission's concern with refusal to bargain in good faith[16], arbitrary denial of access, slowdown of installation and other similar activities reflect an economic power simply lacking in rural LECs when confronted with demands from the vastly larger national entities that are the likely competitors for local telephone service.

The Commission's focus on large urban areas is appropriate, since those areas will likely be the first to experience local competition and those areas pose a unique set of economic issues and balance between the competitors. The Act also focused on establishing clear rules and guidelines to address such areas and the large LECs that provide service in such areas, including the RBOCs.

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[15] NPRM at ¶¶ 92 - 113.
[16] NPRM at ¶ 47.

The Commission should continue to acknowledge, however, that the rules of establishing in this proceeding are likely to be completely inappropriate for rural areas and for LECs serving rural areas.

B. Congress clearly intended that the States retain the most discretion in addressing the issues facing rural areas in their respective States.

The Act intends that States and State commissions have significant discretion both with respect to companies that meet the definition of "rural telephone companies" and with respect to other LECs that serve fewer than 2% of the nation's subscriber lines. This intent is reflected in the provisions of Section 214(e) relating to the determination of "eligible telecommunications carriers" for areas served by rural telephone companies.

In areas served by larger LECs, the Act reflects Congress' intent that there be a presumption that more than one eligible telecommunications carrier be certified. Section 214(e)(2) reads in part:

> Upon request and consistent with the public interest, convenience, and necessity, the State commission ...shall in the case of all other areas [other than areas served by a rural telephone company], designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1).

(Emphasis added).

In areas served by rural LECs, however, the Act makes certification of additional telecommunications carriers subject to specific findings by the State commission. Section 214(e)(2) reads in further part:

> Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, ... designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the

> State commission, so long as each additional requesting carrier meets the requirements of paragraph (l). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

(Emphasis added). Clearly the degree of autonomy and discretion exercised by States and State commissions is at its maximum in areas served by rural telephone companies.

Section 251(f)(1)(A) also exempts "rural telephone companies" from the incumbent LEC obligation set forth in Section 251(c) until the rural LEC has received a "bona fide request" and a "State commission" determines that the request is "not unduly economically burdensome, is technically feasible, and is consistent with Section 254 ... ." Section 251(f)(2) allows a LEC with fewer than 2% of the nation's subscriber lines to petition its State commission for "suspension or modification" of both the duties of all LECs under Section 251(b) and the duties of incumbent LECs under Section 251(c).

Based on the foregoing, it is clear that the Act reflects Congress' intent that the States retain very broad discretion with respect to areas served by rural telephone companies and also with respect to areas served by telephone companies with less than 2% of the nation's access lines. This wide discretion extends to fundamental questions, including the establishment of significant conditions on the introduction of competition. As reflected in Section 253(f), State commissions can require a new competitor to meet the requirements of a "eligible telecommunications carrier" as a precondition to competition in rural LEC areas.

C. The Commission recognized that the Act intends that the States and State commissions retain sole discretion regarding areas served by rural LECs and LECs serving less than 2% of the Nation's access lines.

The Commission discussed the provisions of Sections 251(f) saying in part:

> Section 251(f)(1)(A) provides that the obligations imposed on incumbent LECs pursuant to Section 251(c) "shall not apply to a rural telephone company until (i) such company has received a bona fide request for interconnection, services, or network elements; and (ii) the State Commission determines (under subparagraph (B)) that such request is not unduly economically burdensome, is technically feasible, and is consistent with Section 254 (other than subsections (h)(7) and (c)(1)(D) thereof). Section 251(f)(1)(B) sets forth procedures for the State commission to terminate the rural telephone company exemption. Section 251(f)(2) provides that a LEC "with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide may petition a State Commission for a suspension or modification of the application of a requirement or requirements of subsection (b) or (c) to telephone exchange service facilities specified in such petition. The State must grant the petition to the extent that and for such duration as the State commission determines that such suspension or modification is necessary, and is consistent with the public interest, convenience and necessity. Section 251(f)(2) provides for relief from the requirements of both Section 251(b) and (c), "whereas Section 251(f)(1)(A) provides for relief only from the requirements of Section 251(c).[17]

(citations omitted) (emphasis added). As the Commission noted, determinations of whether to terminate an exemption or whether to grant a suspension or modification both reside with State Commissions.

In light of these provisions of the Act, the Commission requested comments and set forth its tentative conclusions, which read as follows:

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[17] NPRM at ¶ 260.

> We seek comment on whether the Commission can and should establish some standards that would assist the States in satisfying their obligations under this Section. For example, should the Commission establish standards regarding what would constitute a "bona fide" request? We tentatively conclude that the States alone have authority to make determinations under Section 271(f). (sic)[18] (Emphasis added).

The Commission questioned whether it could or should establish standards to guide determinations by the States. After raising the issue, the Commission tentatively concludes that the States "alone have authority" to make these determinations. The Commission is correct.

As previously discussed, Congress also granted to States and State commissions discretion regarding the certification of additional recipients of federal universal service funding under Section 214(e). This additional grant of discretion to the States and State commissions confirms the Commission's conclusion that Congress intended that States and State commissions have sole authority to make determinations under Section 251(f), including both terminations of the exemption from incumbent LEC duties and the suspension or modification of both LEC duties and incumbent LEC duties. There is no indication that the Act intends that the Commission issue rules that impede the States' sole authority.

Further, it is doubtful that the establishment of standards to define terms such as "bona fide" requests, "unduly economically burdensome," and "technically feasible" would be of significant assistance to the States, even if meaningful standards could be established. Similarly, the determination of questions relating to "suspensions and

[18] NPRM at¶ 261.

modifications" turn on questions of "necessity" and consistency with the "public interest, convenience, and necessity."

Clearly, establishment of "national" standards would be at odds with the Act's fundamental and clear emphasis on decision-making by the States for areas served by rural LECs. The Act clearly intends, by its use of broad terminology, that the discretion of the States and State commissions remain unimpaired. To the extent that standards could to be adopted to facilitate decision-making in individual cases, those standards should be adopted by the individual States.

Accordingly, the Commission is correct in its tentative conclusion that the States and State commissions alone have authority to make determinations under Section 251(f).

D. The Commission was correct to leave these issues, including the balancing of obligations of rural LECs and their competitors, to the States.

As the Commission has observed, the States and State commissions have sole authority to implement Section 251(f).[19] Implementation of Section 251(f) necessarily requires the States to balance the costs and benefits of the rural LECs and their competitors. Drawing such a balance, which is inherent in determinations of "public interest, convenience and necessity" and "undue economic burden," may vary between rural LECs and their potential competitors. Achievement of proper balance in these areas requires careful review of the facts of individual cases and is not facilitated by the establishment of inflexible standards through a broad scale, national rulemaking process.

[19] Id.

While it may be possible for the States to narrow the range of considerations and the criteria to be applied, on a State by State basis, it would impossible for the Commission to successfully accomplish such a result, much less to accomplish such a result in the extremely tight time tables required by this rulemaking proceeding.

Accordingly, the Commission was correct to leave all issues of implementation, including balancing of obligations between the incumbent LECs and their potential competitors, to the States.

III. THE STATES SHOULD NOT BE PREVENTED FROM IMPOSING ADDITIONAL OBLIGATIONS ON NEW COMPETITORS.

As the Commission noted, several States have imposed upon new competitors obligations that are reciprocal to the obligations imposed on the incumbent LECs as part of the introduction of local competition.[20] As the Commission also noted, the establishment of uniform, reciprocal obligations may aid in both the negotiation of interconnection arrangements and in the development of local competition.[21] Allowing the States to impose such obligations is consistent with the Act, in which Congress granted substantial discretion to the States.

The imposition of uniform reciprocal obligations may be particularly important to the establishment of fair competition between new LECs and incumbent LECs. Indeed, Congress recognized the possibility that greater uniformity of obligation was required by allowing States to impose the requirements of an eligible telecommunications carriers as a precondition to competition in the areas served by rural LECs.

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[20] NPRM at 45, 53.
[21] Id. at 45.

A. The States may find that requiring more uniformity of obligations aids both negotiations and the development of local competition.

As the Commission also noted, it is quite possible that requiring uniform obligations will assist both negotiation and the development of local competition.[22] The concept of a "level playing field" between competitors has significant validity. This concept is reflected in the statutes of many States which impose upon new competitors many, if not all, of the same obligations that are imposed upon incumbent LECs.[23] Further, it is clear that whatever market advantages may be held by TIER 1 LECs in some urban markets, any "advantages" held by rural LECs in rural markets, especially when facing vastly larger potential competitors, are very dissimilar. The States and State Commissions are in a far better position than the Commission to make determinations whether it is appropriate to impose additional obligations on new competitors to create even-handed competition, given the particular demographics, geography and other characteristics of specific States.

B. Congress did not intend to preclude additional requirements on new competitors.

The intent of Congress to not preclude the States from exercising discretion is reflected in both Section 261 and in Section 251. Section 261 reads in part:

> "(b) EXISTING STATE REGULATIONS- Nothing in this part shall be construed to prohibit any State commission from enforcing regulations prescribed prior to the date of enactment of the Telecommunications Act of 1996, or from prescribing after such date of enactment, in fulfilling the requirements of this part, if such regulations are not inconsistent with the provisions of this part.

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[22] Id. at 45.

[23] See, e.g. Minn. Stat. Section 237.035 and 237.16, Subd.8.

> (c) ADDITIONAL STATE REQUIREMENTS- Nothing in this part precludes a State from imposing requirements on a telecommunications carrier for intrastate services that are necessary to further competition in the provision of telephone exchange service or exchange access, as long as the State's requirements are not inconsistent with this part or the Commission's regulations to implement this part.'

(Emphasis added). The intent of the Act is made clear by the Conference Committee Report, which reads in part as follows:

> New sections 261(b) and (c) preserve State authority to enforce existing regulations and to prescribe additional requirements, so long as those regulations and requirements are not inconsistent with the Communications Act. [24]

Section 251(d)(3) also demonstrates Congress intent to grant the States considerable latitude in dealing with new LECs, reading in part:

> `(3) PRESERVATION OF STATE ACCESS REGULATIONS- In prescribing and enforcing regulations to implement the requirements of this section, the Commission shall not preclude the enforcement of any regulation, order, or policy of a State commission that--
>
> ` A) establishes access and interconnection obligations of local exchange carriers;
>
> ` B) is consistent with the requirements of this section; and
>
> ` C) does not substantially prevent implementation of the requirements of this section and the purposes of this part.

(Emphasis added). The intent of Congress to preserve the authority of the States is reflected in the Conference Committee Report, which reads in part:

> New section 251(d) requires the Commission to adopt regulations to implement new section 251 within 6 months, and states that nothing precludes the enforcement of State regulations that are consistent with the requirements of new section 251.

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[24] Conference Committee Report to § 251.